



Town Council Agenda Report

SUBJECT: Variance

CONTACT PERSON/NUMBER

Name: Mark A. Kutney, AICP
Phone: (954) 797-1101

TITLE OF AGENDA ITEM: V 10-01-00 Flagpole at Shoppes at Stirling Place

V 10-01-00 Applicant: Stirling Place, Inc, petitioner/owner

GENERAL LOCATION: 6851 Stirling Road, generally located on the northeast corner of Stirling Road and 70th Avenue.

REPORT IN BRIEF: This request is to seek a variance from a code maximum flagpole height of 43.75 feet for a total height of 80 feet. The site plan for The Shops At Stirling Place was approved under the name "Davie Town Center" in July 1999 with an 80 foot flag pole. The proposed flag pole is located within the eastern half of the subject site zoned B-2 District, where the maximum permitted height for a flag pole is 43.75 feet. The applicant was notified that an error had occurred subsequent to issuance of permits for site development and building construction, and a stop-work order was issued relative to the pole, but before the flag pole had been transported to the site. The pole has not been erected, although the foundation for the pole has been constructed.

The applicant states the shopping center is designed around the flag concept, which has become his trademark. As an example, the applicant cites the flag pole at Lincoln Plaza.

PREVIOUS ACTIONS: The Town Council tabled this item to the December 5, 2000 meeting (motion carried 5-0, November 15, 2000).

CONCURRENCES:

- The Planning and Zoning Board recommended approval subject to an affirmative covenant, to run with the land, for the flag to always be maintained in excellent condition and for the flag to always be an American flag (motion carried 4-0, Mr. Davenport absent).
- Planning and Zoning Board concurred with tabling this item until November 22, 2000, (motion carried November 8, 2000, 5-0).

FISCAL IMPACT: None

RECOMMENDATION(S): Motion to approve subject to staff's recommendation that the maximum flagpole height be 60 feet.

Attachment(s): Applicant's letter of justification, elevation rendering, land use map, subject site map, aerial.

Application #: V 10-1-00

Revisions:

Exhibit "A":

Original Report Date: 10/25/00

**TOWN OF DAVIE
Development Services Department
Planning & Zoning Division Staff
Report and Recommendation**

APPLICANT INFORMATION

Owner:

Agent:

Name: Stirling Place, Inc.

Name: Stirling Place, Inc.

Address: 7764 N.W. 44th Street

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City: Davie, FL 33351

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Phone: (954) 741-7620

Phone: (954) 741-7620

BACKGROUND INFORMATION

Application Request: To exceed the maximum flag pole height of 43.75 feet by 36.25 feet for a total height of 80 feet.

Address/Location: 6851 Stirling Road/ Generally located on the northeast corner of S.W. 70th Avenue and Stirling Road.

Future Land Use Plan Designation: Commercial

Zoning: B-1, Neighborhood Business District (west portion)
B-2, Community Business District (east portion)

Existing Use: Shopping center (under construction)

Proposed Use: Shopping center

Parcel Size: 8.52 acres (371,031 square feet)

Surrounding Uses:

Single Family Residential

Special Classification

Surrounding Land

Use Plan Designation:

North:

(Residential 2 DU/AC)

South: Church (east portion)

Community

Facility
Stirlingwood Apartments(west portion)

Residential 16 DU/AC

East: Vacant

Commercial

West: Nursery
Surrounding Zoning:

Residential 10 DU/AC

North: R-2, Residential 2 DU/AC
South: East portion-CF, Community Facility District,
West portion-RM-16, Medium-High Density Dwelling District
East: B-2, Community Business District
West: A-1, Agricultural District

ZONING HISTORY

Related Zoning History: None

Previous Request on same property: Council approved the site plan for The Shoppes At Stirling Place in July of 1999.

DEVELOPMENT DETAILS

The site plan for The Shops At Stirling Place was approved under the name “Davie Town Center” in July 1999 with an 80 foot flag pole. The proposed flag pole is located within the eastern half of the subject site zoned B-2 District, where the maximum permitted height for a flag pole is 43.75 feet. The applicant was notified that an error had occurred subsequent to issuance of permits for site development and building construction, and a stop-work order was issued relative to the pole, but before the flag pole had been transported to the site. The pole has not been erected, although the foundation for the pole has been constructed. Some months after the Town notified the applicant of the error, the applicant filed this variance application.

The applicant states the shopping center is designed around the flag concept, which has become his trademark. The applicant cites the tall flag poles at Lincoln Plaza and 5943 University Drive (University Creek Plaza). Staff confirmed that Council approved the 100-foot flag pole at University Creek Plaza on January 3, 1990, although staff could not confirm an approval for the pole at Lincoln Plaza based upon available records.

The applicant has stated that the required landscaping and wetland mitigation area abutting the northern property line will screen the pole from view of residences north of the site, and that the extended flag pole height will blend into the surroundings.

Applicable Codes and Ordinances

Land Development Code Section 12-83 (Table), which allows a maximum height of 35 feet in the B-2 district.

Land Development Code Section 12-33(L), which states, flag poles may exceed the permissible height limit in any district by not more than twenty-five (25) percent.

Comprehensive Plan Considerations

Planning Area: This planning area is south of Griffin Road, generally north of Stirling Road, east of S.W. 76 Avenue and west of the Florida Turnpike. This area is predominantly agricultural in nature with scattered low-density single-family residential development. Low profile commercial development lines the Griffin Road, Davie Road, and Stirling Road corridors. Properties adjacent to Griffin Road will soon be affected by widening of that roadway, creating an opportunity for the Town to seek redevelopment of this corridor, potentially enhancing the Town's non-residential tax base. Agricultural uses are expected to diminish in the upcoming years, succumbing to increased residential demands given the enhanced accessibility provided by the roadway expansion and easy access to the Florida Turnpike. Commercial developments along the south side of Stirling Road are somewhat deteriorated and should be evaluated for potential redevelopment opportunities.

Broward County Comprehensive Plan Considerations

None.

Staff Analysis

The applicant identifies two (2) potential special circumstances relating to the variance request: issuance of a permit in error; and use of the flag pole as a design trademark.

Staff believes the first potential special circumstance, issuance of a permit in error, is more appropriately evaluated as a vested rights determination when considered by itself. Staff has recommended the applicant seek a vested rights determination, but has not received such a request.

Regarding the second potential special circumstance, staff does not find that utilizing a tall flag pole as a design feature satisfies the criteria for the granting of a variance. The code limits the maximum height of a flag pole to 25 percent above the maximum permitted building height precisely because apartment complexes, retail centers and other developments desire tall flag poles to attract attention as a form of signage. This can become unsightly when overused. The fact that the architect uses tall flag poles as a signature of his developments also does not represent special circumstances.

In this case, there are substantial structural elements of the building intended to support and compliment the flag pole (please refer to attached elevation rendering). These structural elements are a signature part of the center's architectural design and have already been constructed.

Given the combination of special circumstances, specifically the reliance on Town approvals to purchase the pole and construct architectural and supporting elements of the building, and given the centerpiece nature of the proposed pole and related architectural elements, staff believes the applicant has demonstrated special circumstances that are not self-created and do not apply to other land or building similarly zoned, and that elimination of these elements would cause financial hardship and be detrimental to appearance of the center as approved by the Town.

However, at 80 feet, the pole is higher than it needs to be in order to accomplish the intended design, and the flag depicted in the rendering larger than it needs to be for this purpose. As proposed, the flag will be visible to some neighboring residential properties as viewed above the tree line. Therefore, staff recommends the flag pole height be no higher 60 feet. This 20-foot reduction will reduce the flag's visibility to abutting residential properties while still allowing the pole to serve as architectural centerpiece at an appropriate scale to the development.

Findings of Fact

Variances:

Section 12-309(B)(1):

The following findings of facts apply to the variance request.

(a) There are special circumstances or conditions applying to the land or building for which the variance is sought, which are peculiar to such land or building and do not apply generally to land or building in the same district. The strict application of the provisions of this chapter would not deprive the applicant of the reasonable use of such land or building for which the variance is sought, although the alleged hardship is not self-created by any person having an interest in the property.

(b) The granting of the variance is not necessary for the reasonable use of the land or building and that the variance as requested is not the minimum variance that will accomplish this purpose.

(c) Granting of the requested variance, subject to staff recommendations, is in harmony with the general purpose and intent of this chapter and is not expected to be injurious to the neighborhood or otherwise detrimental to the public welfare.

Staff Recommendation

Recommendation: Based upon the above and the overall finding of facts in the positive, staff recommends **approval**, of petition V 10-1-00 **subject to** reducing the height of the flag pole to no more than 60 feet.

Planning and Zoning Board

On November 22, 2000 the Planning and Zoning Board, on a motion made by Mr. Davis and seconded Mr. Stahl, recommended approval subject to an affirmative covenant, to run with the land, for the flag to always be maintained in excellent condition and for the flag to always be an American flag (motion carried 4-0, Mr. Davenport absent).

Exhibits

1. Applicant's letter of justification
2. Elevation rendering
3. Land Use Map
4. Subject Site Map
5. Aerial

Prepared by: _____

Reviewed by: _____

REASON FOR REQUEST:

SHOPS AT STIRLING PLACE APPLICATION FOR FLAG POLE VARIANCE

The site plan for The Shops At Stirling Place was approved in July 1999 with an 80 foot flag pole. We were recently notified that the flag pole was approved in error and that a variance is necessary to install the 80 foot flag pole. Because of the initial approval, the reinforced foundation has been poured to accept the 80 foot pole, and the pole is in transit from the manufacturer to the site.

The shopping center was designed around the flag concept, which has become a trade make of the developer. The same flag theme was first used in Davie by the project architect, Dan Duckham, in the design of the Lincoln Park Davie shopping center which received the Davie Western Theme Landmark Building design award from the Downtown Davie Agency. Due to the size and scale of the project, as well as the heavy landscaping and wetland mitigation area, the extended flag pole height will blend into the surroundings. In proportion to the site size, flag pole at The Shops of Stirling Place will appear relatively smaller than the flag pole currently at Lincoln Park Davie.

Additionally, the project is located in a section of Stirling Road which has seen little or no commercial development since the developers last project (Lincoln Park Davie) almost ten years ago. Due the stagnant nature of commercial development in the area, the flag pole will function as a tasteful means of attracting attention to the property from Stirling Road. The 80 foot flag pole helps to attract attention to the property without detracting from the neighborhood. In fact, due to the angles, the flag will not be visible from the homes to the north once the trees in the mitigation area grow in. The 80 foot flag pole is a great way to attract attention to the property without alienating our best potential customers, the surrounding neighbors.

For over twenty years Janoura Realty & Management has owned and managed shopping centers on Stirling Road in the Town of Davie. We have always strived to develop and maintain properties that benefits both the tenants and the surrounding community. We look forward to a positive response on this matter.









